

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES	:	
	:	
v.	:	CRIMINAL NO. 09-496-05
	:	
GEORGE BORGESI	:	
	:	

DEFENDANT'S MOTION TO PRECLUDE EVIDENCE

Defendant George Borgesi, by and through his undersigned counsel, hereby moves the Court pursuant to Fed.R.Evid. 401, 402, and 403 to preclude the government from playing the conversation that is transcribed in Exhibit 1-87a. In support thereof, movant avers as follows:

1. The government intends to play for the jury a conversation that was recorded on December 19, 2002 between George Borgesi and Louis Monacello. That conversation is set forth in a transcript which the government has pre-marked as Exhibit 1-87a.
2. According to the testimony provided by Louis Monacello on November 9, 2012, the conversation relates to a “bullshit thing” that involves Mr. Borgesi’s brother Anthony, see Transcript for 11/9/12 at page 156, a letter that was supposedly written by Angelo Lutz in which Mr. Lutz is claimed to have made disparaging remarks about Mr. Borgesi and Monacello and in which Joseph Ligambi and Joseph Merlino are described as “the only real two gangsters[,]” id. at page 157, and a request by Mr. Borgesi that Frank DiGiacomo put \$500 in his prison commissary account despite the fact that “he knew he wasn’t getting 500 from Frank in his commissary.” Id. at page 159.
3. In addition to these statements, the conversation contains numerous references by Mr. Borgesi to “cunt shit” which the defense believes will be considered highly offensive by the

female members of the jury panel. Further, this phrase has no relevance to any of the issues raised in this trial and or any hidden or secret Mafia meaning that might somehow makes its use by Mr. Borgesi relevant.

4. Based upon Monacello's prior testimony, the conversation which is the subject of Exhibit 1-87a is irrelevant because it involves a "bullshit thing" unrelated to any alleged criminal activity and it also contains references (and likely testimony from Monacello) to a hearsay letter that was supposedly written by Angelo Lutz. Further, the request by Mr. Borgesi to have money placed into his commissary account was apparently made with knowledge that it would not be done by DiGiacomo and as such is also irrelevant.

5. Finally, to the extent that the conversation has any probative value whatsoever that value is substantially outweighed by the danger that the references made by Mr. Borgesi to "cunt shit" will cause unfair prejudice to him in the minds of the female members of the jury. The conversation is therefore inadmissible and we request the Court to rule accordingly.

WHEREFORE, defendant George Borgesi requests the Court to grant this motion and preclude the government from playing the conversation which is transcribed in Exhibit 1-87a.

Respectfully submitted,

Date: 11/25/13

/s/ Christopher D. Warren

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CERTIFICATE OF SERVICE

I, Christopher D. Warren, hereby certify that on this 25th day of November, 2013, I caused a true and correct copy of the foregoing Defendant's Motion to Preclude Evidence to be served upon the following persons by electronic transmission:

Frank Labor, AUSA  
John Han, AUSA  
615 Chestnut Street  
Suite 1250  
Philadelphia, PA 19106

/s/ Christopher D. Warren  
Christopher D. Warren